



OFFICE OF THE
BOARD OF APPEALS
TOWN OF DUNSTABLE
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Approved
1/10/13

Childs Variance Hearing Continuation
November 1, 2012

Members Present: Ted Gaudette, Acting Chairperson
John Martin, Clerk
Leo Tometich, Chairperson
Judy Thompson, Associate Member
Lisa O'Connell, Acting Secretary and Member

Members Absent: Josh West, Member
Al Horton, Associate Member
Gerald Mead, Associate Member

Petitioners Present: James Childs, 327 Forest Street, Dunstable

Others Present: Leo Dumont, 323 Forest Street Dunstable
Debbie Christopher and Stan Foster, 461 Pleasant Street, Dunstable

This meeting's intent was to file a formal decision with the Town Clerk regarding the application of James Childs of 327 Forest Street, Dunstable, MA owner of the property located at 327 Forest Street, Dunstable, MA for a variance from the requirements of the Dunstable Zoning By-laws, Section 11.5, to construct a garage closer to the street line than the principal building.

Acting Chairperson Ted Gaudette called the meeting to order and reconvened the hearing at 7:03 p.m. He read the hearing continuation notice for the record and stated this was a continuation of the variance hearing opened on October 11, 2012. The petitioner would like to build a new garage in a different location than allowed by the zoning by-laws. There is a possibility of a financial hardship because of the removal of a natural boundary of trees.

James Childs summarized the last meeting by stating his property is a hammerhead or pork chop lot. The house is not facing the street and to put the garage in a normal position next to the house would place it closer to the street than the principal building which is not allowed by the by-laws. He is petitioning for a variance because of the hardship of the cost of construction if he builds the garage where the by-laws allow.

Mr. Childs read the letter he submitted with his application on September 4, 2012. He has since contacted a couple of contractors for estimates to place the garage where it would be allowed by the by-laws. If he builds the garage where he would like to build it, the estimated cost would be between \$110,000 and \$120,000. If he builds the garage in the approved location, it would cost anywhere between \$155,000 and \$175,000. This includes the cost for a 100 foot retaining wall, 200 tons of gravel, a 400 foot trench from the house, through the stone wall and all of the site work required. Conduit is \$14 per foot.

Mr. Childs said the intent of the by-law is to protect the town from seeing the accessory building in front of the house. In the approved location everyone will see the garage. Abutters Shawn Ferrari and Kevin Dumont have written letters of support of the variance, which Mr. Childs submitted for the record. His neighbor, and also an abutter, Leo Dumont is here tonight in support.

Mr. Childs submitted additional enlarged photographs of the property, views from the street and also of the garage locations in relation to the abutters.

Debbie Christopher said she was here to gain information about the reason behind the by-law.

Ted Gaudette said years ago the main house was the predominant feature and the by-law was to protect this. However, this was before hammerhead lots were developed.

Debbie Christopher asked if this was to protect the appearance of the town.

Ted Gaudette said yes.

Debbie Christopher said she may be in the same situation and wanted to become educated on the by-law.

Ted Gaudette said if the accessory building is connected to the house, the petitioner would avoid the problem of not complying with the by-law.

Leo Dumont said that he was the only abutter with a visual impact. He can directly see the lot and he is in favor of the variance. It is common sense. He said in the approved location there is 2 ½ yards of loam and water runs to it. It is near the wetlands and he would have to cut down all the trees which protect the drainage. The cost would be exorbitant to re-establish the drainage after the new garage is built.

Ted Gaudette said that he contacted Town Counsel and was advised that according to M.G.L. Chapter 40A, section 10, the variance could be granted if the petitioner showed that due to the size, shape or topography of the land, a substantial hardship, financial or otherwise, would result in the literal enforcement of the by-law and that the granted variance would not be considered more detrimental to the neighborhood.

Leo Dumont said that he is the only one that would see the new garage. He said in the approved location, it is all boulders and the run off heads towards the wetlands.

James Childs said the variance location is solid ground.

Ted Gaudette said if the board granted the variance, it would be on the conditions of M.G.L. Chapter 40A, section 10.

John Martin motioned to vote to grant or deny the variance requested in the petition. Leo Tometich seconded the motion. The roll was called:

Judy Thompson – to grant
Leo Tometich – to grant
Ted Gaudette – to grant
John Martin – to grant
Lisa O’Connell – to grant

The motioned passed to grant the variance to the petitioner due to the financial hardship incurred by the land and that it would be less detrimental to the neighborhood.

Ted Gaudette explained the 14-day filing and 21-day appeal procedures to the petitioner.

John Martin motioned to close the hearing. Leo Tometich seconded the motion and all were in favor. The hearing was closed at 7:37 pm.